



February 9, 2001

SENATE BILL No. 178

DIGEST OF SB 178 (Updated February 8, 2001 12:51 PM - DI 44)

Citations Affected: IC 6-1.1.

Synopsis: Property tax administration. Permits a claim on an amended personal property tax return of any adjustment or exemption that would have been allowable on the original return. Establishes a procedure for obtaining a property tax credit or refund under certain conditions when an amended personal property tax return has reduced the taxpayer's property tax liability. Specifies the procedures for the filing and processing of petitions for correction of error with respect to property tax assessments. Adjusts the qualifications for membership of the property tax assessment board of appeals. Provides that rules of the state board of tax commissioners governing the practice of representatives in proceedings before the state board or a property tax board of appeals may not: (1) restrict the ability to practice before the agency to attorneys unless certain matters are under consideration in the proceeding; or (2) restrict admissibility of evidence to the agency based on the manner in which the taxpayer's representative or other witness is compensated.

Effective: Upon passage; July 1, 2001.

Kenley, Alexa

January 8, 2001, read first time and referred to Committee on Finance.
February 8, 2001, amended, reported favorably — Do Pass.

SB 178—LS 7484/DI 52+



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February 9, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 178

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-3-7.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7.5. (a) A taxpayer may
3 file an amended personal property tax return, in conformity with the
4 rules adopted by the state board of tax commissioners, not more than
5 six (6) months after the later of the following:

6 (1) The filing date for the original personal property tax return, if
7 the taxpayer is not granted an extension in which to file under
8 section 7 of this chapter.

9 (2) The extension date for the original personal property tax
10 return, if the taxpayer is granted an extension under section 7 of
11 this chapter.

12 (b) A tax adjustment related to an amended personal property tax
13 return shall be made in conformity with rules adopted under IC 4-22-2
14 by the state board of tax commissioners.

15 (c) **A taxpayer may claim on an amended personal property tax**
16 **return any adjustment or exemption that would have been**
17 **allowable under any statute or rule adopted by the state board of**

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1 tax commissioners if the adjustment or exemption had been
2 claimed on the original personal property tax return.

3 (d) If a taxpayer files an amended personal property tax return
4 for a year before July 16 of that year, the taxpayer shall pay taxes
5 payable in the immediately succeeding year based on the assessed
6 value reported on the amended return.

7 (e) If a taxpayer files an amended personal property tax return
8 for a year after July 15 of that year, the taxpayer shall pay taxes
9 payable in the immediately succeeding year based on the assessed
10 value reported on the taxpayer's original personal property tax
11 return. A taxpayer that paid taxes under this subsection is entitled
12 to a credit in the amount of taxes paid by the taxpayer on the
13 remainder of:

14 (1) the assessed value reported on the taxpayer's original
15 personal property tax return; minus

16 (2) the finally determined assessed value that results from the
17 filing of the taxpayer's amended personal property tax return.

18 The county auditor shall apply the credit against the taxpayer's
19 property taxes on personal property payable in the year that
20 immediately succeeds the year in which the taxes were paid.

21 (f) If the amount of the credit to which the taxpayer is entitled
22 under subsection (e) exceeds the amount of the taxpayer's property
23 taxes on personal property payable in the year that immediately
24 succeeds the year in which the taxes were paid, the county auditor
25 shall apply the amount of the excess credit against the taxpayer's
26 property taxes on personal property in the next succeeding year.

27 (g) Not later than December 31 of the year in which a credit is
28 applied under subsection (f), the county auditor shall refund to the
29 taxpayer the amount of any excess credit that remains after
30 application of the credit under subsection (f).

31 (h) The taxpayer is not required to file an application for:

32 (1) a credit under subsection (e) or (f); or

33 (2) a refund under subsection (g).

34 (i) Before August 1 of each year, the county auditor shall
35 provide to each taxing unit in the county an estimate of the total
36 amount of the credits under subsection (e) or (f) that will be
37 applied against taxes imposed by the taxing unit that are payable
38 in the immediately succeeding year.

39 SECTION 2. IC 6-1.1-15-12 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) Subject to the
41 limitations contained in subsections (c) and (d), a county auditor shall
42 correct errors which are discovered in the tax duplicate for any one (1)
43 or more of the following reasons:

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- (1) The description of the real property was in error.
- (2) The assessment was against the wrong person.
- (3) Taxes on the same property were charged more than one (1) time in the same year.
- (4) There was a mathematical error in computing the taxes or penalties on the taxes.
- (5) There was an error in carrying delinquent taxes forward from one (1) tax duplicate to another.
- (6) The taxes, as a matter of law, were illegal.
- (7) There was a mathematical error in computing an assessment.
- (8) Through an error of omission by any state or county officer the taxpayer was not given credit for an exemption or deduction permitted by law.

A petition for correction of error described in this subsection may be filed by a taxpayer, an elected assessing official who represents the area where the property subject to the petition is located, or the county auditor of the county in which the property subject to the petition is located. The petition must be filed with the county assessor of the county in which the property that is the subject of the petition is located. The county assessor shall record the petition in an appeal log and transmit copies of the petition to the appropriate township assessor and the county auditor for signature after their respective actions approving or disapproving the petition. If a petition for correction of error is filed by an assessing official or a county auditor, the official who filed the petition shall give written notice of the filing. The notice must contain a general description of the property and the petition that was filed. With respect to an assessment on which two (2) installments of taxes are due under IC 6-1.1-7-7(a) or IC 6-1.1-22-9(a), a taxpayer may not file a petition for correction of error after the time within which the taxpayer may claim a refund under IC 6-1.1-26-1 with respect to the second installment. With respect to an assessment on which one (1) installment of taxes is due under IC 6-1.1-7-7(b) or IC 6-1.1-22-9(b), a taxpayer may not file a petition for correction of error after the time within which the taxpayer may claim a refund under IC 6-1.1-26-1 with respect to the installment. An elected assessing official or a county auditor may not file a petition for correction of error after the time within which the property may be assessed or the assessed value of the property may be increased under IC 6-1.1-9-3 or IC 6-1.1-9-4.

(b) The county auditor shall correct an error described under subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) when ~~he~~ the county

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auditor finds that the error exists, regardless of whether a petition for correction of error has been filed under subsection (a).

(c) If the tax is based on an assessment made or determined by the state board of tax commissioners, the county auditor shall not correct an error described under subsection (a)(6), (a)(7), or (a)(8) until after the correction is either approved by the state board or ordered by the tax court.

(d) If the tax is not based on an assessment made or determined by the state board of tax commissioners, the county auditor shall correct an error described under subsection (a)(6), (a)(7), or (a)(8) only if the correction is first approved by at least two (2) of the following officials:

- (1) The township assessor.
- (2) The county auditor.
- (3) The county assessor.

If two (2) of these officials do not approve such a correction, the county ~~auditor assessor~~ shall refer the matter to the county property tax assessment board of appeals for determination. The county property tax assessment board of appeals shall provide a copy of the determination to the taxpayer and to the county auditor.

(e) A taxpayer may appeal a determination of the county property tax assessment board of appeals to the division of appeals of the state board of tax commissioners for a final administrative determination. An appeal under this section shall be conducted in the same manner as appeals under sections 4 through 8 of this chapter. The state board of tax commissioners shall send the final administrative determination to the taxpayer, the county auditor, the county assessor, and the township assessor.

(f) If a correction or change is made in the tax duplicate after it is delivered to the county treasurer, the county auditor shall transmit a certificate of correction to the county treasurer. The county treasurer shall keep the certificate as the voucher for settlement with the county auditor.

SECTION 3. IC 6-1.1-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Each county shall have a county property tax assessment board of appeals composed of individuals who are at least eighteen (18) years of age and knowledgeable in the valuation of property. **Except for the county assessor, an individual who is an officer or employee of a county or township may not serve on the board of appeals in the county in which the individual is an officer or employee.** The fiscal body of the county shall appoint two (2) individuals to the board. At least one (1) of the members appointed by the county fiscal body must be a certified

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level two assessor-appraiser. The board of commissioners of the county shall appoint two (2) freehold members so that not more than three (3) of the five (5) members may be of the same political party and so that at least three (3) of the five (5) members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two assessor-appraiser, **unless the county assessor is a certified level two assessor-appraiser**. A person appointed to a property tax assessment board of appeals may ~~not~~ serve on the property tax assessment board of appeals of another county at the same time. The members of the board shall elect a president. The employees of the county assessor shall provide administrative support to the property tax assessment board of appeals. The county assessor is a voting member of the property tax assessment board of appeals. **and The county assessor** shall serve as secretary of the board. The secretary shall keep full and accurate minutes of the proceedings of the board. A majority of the board constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the whole board.

SECTION 4. IC 6-1.1-31-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. **(a) Subject to subsection (b)**, the state board of tax commissioners shall adopt rules under IC 4-22-2 to govern the practice of representatives in proceedings before the property tax assessment board of appeals and the state board of tax commissioners under IC 6-1.1-15.

(b) Except as provided in subsection (c), a rule adopted under subsection (a) may not:

(1) restrict the ability of a representative to practice before the property tax assessment board of appeals or the state board of tax commissioners based on the fact that the representative is not an attorney admitted to the Indiana bar; or

(2) restrict the admissibility of written or oral testimony of a representative or other witness based upon the manner in which the representative or other witness is compensated.

(c) A rule adopted under subsection (a) may require a representative in a proceeding before the property tax assessment board of appeals or the state board of tax commissioners to be an attorney admitted to the Indiana bar if the matter under consideration in the proceeding is:

(1) an exemption for which an application is required under IC 6-1.1-11;

(2) a claim that taxes are illegal as a matter of law;



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1 **(3) a claim regarding the constitutionality of an assessment;**
2 **or**

3 **(4) any other matter that requires representation that involves**
4 **the practice of law.**

5 **(d) This subsection applies to a petition that is filed with the**
6 **property tax assessment board of appeals or the state board of tax**
7 **commissioners before the adoption of a rule under subsection (a)**
8 **that establishes new standards for:**

9 **(1) the presentation of evidence or testimony; or**

10 **(2) the practice of representatives.**

11 **The property tax assessment board of appeals or the state board of**
12 **tax commissioners may not dismiss a petition solely for failure to**
13 **comply with the rule adopted under subsection (a) without**
14 **providing the petitioner with an opportunity to present evidence,**
15 **testimony, or representation in compliance with the rule.**

16 **SECTION 5. An emergency is declared for this act.**

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SENATE MOTION

Mr. President: I move that Senator Alexa be added as second author of Senate Bill 178.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Finance, to which was referred Senate Bill No. 178, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 2 and 3, begin a new paragraph and insert:

"(d) If a taxpayer files an amended personal property tax return for a year before July 16 of that year, the taxpayer shall pay taxes payable in the immediately succeeding year based on the assessed value reported on the amended return.

(e) If a taxpayer files an amended personal property tax return for a year after July 15 of that year, the taxpayer shall pay taxes payable in the immediately succeeding year based on the assessed value reported on the taxpayer's original personal property tax return. A taxpayer that paid taxes under this subsection is entitled to a credit in the amount of taxes paid by the taxpayer on the remainder of:

(1) the assessed value reported on the taxpayer's original personal property tax return; minus

(2) the finally determined assessed value that results from the filing of the taxpayer's amended personal property tax return.

The county auditor shall apply the credit against the taxpayer's property taxes on personal property payable in the year that immediately succeeds the year in which the taxes were paid.

(f) If the amount of the credit to which the taxpayer is entitled under subsection (e) exceeds the amount of the taxpayer's property taxes on personal property payable in the year that immediately succeeds the year in which the taxes were paid, the county auditor shall apply the amount of the excess credit against the taxpayer's property taxes on personal property in the next succeeding year.

(g) Not later than December 31 of the year in which a credit is applied under subsection (f), the county auditor shall refund to the taxpayer the amount of any excess credit that remains after application of the credit under subsection (f).

(h) The taxpayer is not required to file an application for:

(1) a credit under subsection (e) or (f); or

(2) a refund under subsection (g).

(i) Before August 1 of each year, the county auditor shall provide to each taxing unit in the county an estimate of the total amount of the credits under subsection (e) or (f) that will be applied against taxes imposed by the taxing unit that are payable in the immediately succeeding year."



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Page 2, line 22, delete "at any time".

Page 2, line 35, after "filed." insert **"With respect to an assessment on which two (2) installments of taxes are due under IC 6-1.1-7-7(a) or IC 6-1.1-22-9(a), a taxpayer may not file a petition for correction of error after the time within which the taxpayer may claim a refund under IC 6-1.1-26-1 with respect to the second installment. With respect to an assessment on which one (1) installment of taxes is due under IC 6-1.1-7-7(b) or IC 6-1.1-22-9(b), a taxpayer may not file a petition for correction of error after the time within which the taxpayer may claim a refund under IC 6-1.1-26-1 with respect to the installment."**

Page 4, line 23, delete "A" and insert **"Except as provided in subsection (c), a"**.

Page 4, between lines 31 and 32, begin a new paragraph and insert:

"(c) A rule adopted under subsection (a) may require a representative in a proceeding before the property tax assessment board of appeals or the state board of tax commissioners to be an attorney admitted to the Indiana bar if the matter under consideration in the proceeding is:

- (1) an exemption for which an application is required under IC 6-1.1-11;**
- (2) a claim that taxes are illegal as a matter of law;**
- (3) a claim regarding the constitutionality of an assessment;**
- or**
- (4) any other matter that requires representation that involves the practice of law."**

Page 4, line 32, delete "(c)" and insert **"(d)"**.

and when so amended that said bill do pass.

(Reference is to SB 178 as introduced.)

BORST, Chairperson

Committee Vote: Yeas 13, Nays 0.

